FILE COPY

Office Supreme Court, U.
FILED
OCT 18 1929
CHARLES ELMORE CRO
CLE

No. 32

In the Supreme Court of the United States

OCTOBER TERM, 1929

UNITED STATES SHIPPING BOARD MERCHANT FLEET CORPORATION, SUED IN THE NAME OF THE UNITED STATES SHIPPING BOARD EMERGENCY FLEET CORPORATION, AND CONSOLIDATED NAVIGATION COMPANY, INC., PETITIONERS

v.

BENJAMIN LUSTGARTEN, AN INFANT, BY HIS GUARDIAN AD LITEM, JOHN A. LYDECKER

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE PETITIONERS

INDEX

	Page
Opinions below	1
Jurisdiction	2
Questions presented	2
The statutes involved	3
Statement	10
Specification of errors to be urged	14
Summary of the argument	14
Argument:	
I. Neither of the petitioners is liable to Lustgarten, because the United States alone owed Lustgarten the duty for neglect of which he recovered	17
(A) The captain of the vessel and Lustgarten were servants of the United States	18
(B) Neither of the petitioners became the owner of the vessel "pro hac vice"	23
II. Neither of the petitioners is liable to Lustgarten for the torticus acts of persons whom they employed to carry on the operation of merchant vessels owned by the United States and whom they select with due care, because the petitioners were performing a public function as agents of the United States	26
III. No action at law lies against the Fleet Corporation for the tort complained of in the instant case, as the remedy, given by the suits in admiralty act is exclusive of all other remedies against it for all causes of action arising out of the operation of merchant vessels owned by the United States for which a proceeding in admiralty could be maintained if the vessel were privately owned	30
Conclusion	41

CITATIONS

Cases:	
Arnson v. *Murphy*, 109 U. S. 238	33
Baumvoll v. *Gilchrest & Co.* (1892), 1 Q. B. 253	24
Berizzi Bros. Co. v. *S. S. Pesaro*, 271 U. S. 562	27
Donovan v. *McAlpin*, 85 N. Y. 185	29
Eastern Transportation Co. v. *United States*, 272 U. S. 675	31
Federal Sugar Refining Co. v. *United States*, 30 F. (2d) 254, No. 56, October Term, 1929	38
Fleet Corporation v. *Greenwald*, 16 F. (2d) 948	13, 24

Cases—Continued. Page

Fleet Corporation v. *Rosenberg Bros.*, 276 U. S. 202 ..... 16, 31
Fleet Corporation v. *Western Union Telegraph Co.*, 275 U. S. 415 27
Keenan v. *Southworth*, 110 Mass. 474 29
Leary v. *United States*, 14 Wall. 607 24
Minnesota v. *Hitchcock*, 185 U. S. 373 29
Nassau Smelting Works v. *United States*, 266 U. S. 101 33
New Orleans-Belize S. S. Co. v. *United States*, 239 U. S. 202 24
Panama R. R. Co. v. *Johnson*, 264 U. S. 375 ..... 40, 41
Robertson v. *Sichel*, 127 U. S. 507 29
Royal Ins. Co., Ltd., v. *Fleet Corporation*, 1929 A. M. C. 393; No. 123, October Term, 1929 34
Sloan Shipyards Corporation v. *Fleet Corporation*, 258 U. S. 549 ..... 13, 29
Thorp v. *Hammond*, 12 Wall. 408 26
United States v. *Pfitsch*, 256 U. S. 547 33
United States v. *Shea*, 152 U. S. 178 24
Wells v. *Roper*, 246 U. S. 335 29

Statutes:

General salvage act, c. 268, 37 Stat. 242 (U. S. C. Title 46, secs. 727–731) 38
Cummins amendment, c. 91, 41 Stat. 456, 494 38
Death on the high seas act, c. 111, 41 Stat. 537 (U. S. C. Title 46, secs. 761–768) 38
Suits in admiralty act, March 9, 1920, c. 95, 41 Stat. 525–528 (U. S. C. Title 46, secs. 741 et seq.)—
Sec. 1 6
Sec. 2 6
Sec. 3 7
Sec. 5 8
Sec. 6 8
Sec. 8 8
Sec. 11 9
Sec. 12 9
Sec. 13 10
Merchant marine act, June 5, 1920, c. 250, 41 Stat. 988, 993, 1007 (U. S. C. Title 46, secs. 861, 871, 886)—
Sec. 1 3
Sec. 12 4
Sec. 33 ..... 5, 38
Sec. 35 5
Public vessel act, c. 428, 43 Stat. 1112 (U. S. C. Title 46, secs. 781–790) 38

Miscellaneous:

34 Op. A. G. 363 ..... 18, 24
Mechem on Agency, vol. 1 (2d. ed.)—
Sec. 1463 18
Sec. 1502 29

In the Supreme Court of the United States

OCTOBER TERM, 1929

No. 32

UNITED STATES SHIPPING BOARD MERCHANT FLEET Corporation, Sued in the Name of the United States Shipping Board Emergency Fleet Corporation, and Consolidated Navigation Company, Inc., Petitioners

v.

BENJAMIN LUSTGARTEN, AN INFANT, BY HIS GUARDIAN Ad Litem, John A. Lydecker

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE PETITIONERS

OPINIONS BELOW

No written opinion was filed in the District Court. The colloquy on motions to dismiss, the charge to the jury, requests for instructions and rulings appear at pages 124–125, 142–143, and 170–174 of the Record. The Circuit Court of Appeals affirmed the judgment of the District Court in a brief unreported *per curiam* opinion. (R. 188.)

JURISDICTION

The judgment of the Circuit Court of Appeals was entered November 5, 1928. (R. 188.) Petition for certiorari was filed February 4, 1929, and granted March 5, 1929. (R. 189.) The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Was the Fleet Corporation or an operating agent of a merchant vessel owned by the United States, after the passage of the Merchant Marine Act of 1920, liable to a seaman on the vessel for injuries to his health caused by the fault of the officers of the vessel, in the absence of any contention that either defendant had participated in such fault or failed to use due care in selecting the officers?

2. After the passage of the Suits in Admiralty Act, had the seaman a remedy in an action at law against the Fleet Corporation for the neglect mentioned above?

The questions presented are similar to those presented in *Johnson* v. *Fleet Corporation,* No. 5, October Term, 1929, which after a hearing was restored to the docket for reargument and is set down for hearing with the instant case, the two cases to be argued as one. The Court has especially invited argument on the following questions:

1. Is the United States Shipping Board Merchant Fleet Corporation, as an agency of the United States, immune from suit for the tortious acts of persons whom it has employed to carry on the operation of merchant vessels of the United States, and who have been selected by it with due care?

2. Are the remedies given against the United States Shipping Board Emergency Fleet Corporation by the Suits in Admiralty Act of March 9, 1920, exclusive of all other remedies, whether at law or in admiralty, for liabilities of the Fleet Corporation growing out of the operation of merchant vessels of the United States?

3. Is the two-year period of limitation prescribed in the Suits in Admiralty Act applicable to the present suit?

The last question is not involved in the instant case. A separate brief will be filed in behalf of the Fleet Corporation in the *Johnson case,* which will, however, incorporate by reference a large part of this brief.

THE STATUTES INVOLVED

Merchant Marine Act of June 5, 1920, c. 250, 41 Stat. 988, 993, 1007 (U. S. C., Title 46, Secs. 861, 871, 886):

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is necessary for the national defense and for the proper growth of its foreign and domes-

tic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this Act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained.

* * * * *

SEC. 12. That all vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the board or chartered or leased by it on such terms and conditions as the board shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 1 and 5 of this Act; and the United States Shipping Board Emergency Fleet Corporation shall continue in existence and have authority to operate vessels, unless otherwise directed by law, until all vessels are sold in

accordance with the provisions of this Act, the provision in section 11 of the "Shipping Act, 1916," to the contrary notwithstanding.

* * * * *

SEC. 33. That section 20 of such Act of March 4, 1915, be, and is, amended to read as follows:

"SEC. 20. That any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman as a result of any such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located."

* * * * *

SEC. 35. That the power and authority vested in the board by this Act, except as herein otherwise specifically provided, may be exercised directly by the board, or by it through the United States Shipping Board Emergency Fleet Corporation.

The pertinent sections of the Suits in Admiralty Act of March 9, 1920, c. 95, 41 Stat. 525–528 (U. S. C., Title 46, Secs. 741, et seq.), are:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no vessel owned by the United States or by any corporation in which the United States or its representatives shall own the entire outstanding capital stock or in the possession of the United States or of such corporation or operated by or for the United States or such corporation, and no cargo owned or possessed by the United States or by such corporation, shall hereafter, in view of the provision herein made for a libel in personam, be subject to arrest or seizure by judicial process in the United States or its possessions: *Provided,* That this Act shall not apply to the Panama Railroad Company.
>
> SEC. 2. That in cases where if such vessel were privately owned or operated, or if such cargo were privately owned and possessed, a proceeding in admiralty could be maintained at the time of the commencement of the action herein provided for, a libel in personam may be brought against the United States or against such corporation, as the case may be, provided that such vessel is employed as a merchant vessel or is a tug boat operated by such corporation. Such suits shall be brought in the district court of the United States for the district in which the parties so suing, or any of them, reside or

have their principal place of business in the United States, or in which the vessel or cargo charged with liability is found. The libelant shall forthwith serve a copy of his libel on the United States attorney for such district and mail a copy thereof by registered mail to the Attorney General of the United States, and shall file a sworn return of such service and mailing. Such service and mailing shall constitute valid service on the United States and such corporation. In case the United States or such corporation shall file a libel in rem or in personam in any district, a cross-libel in personam may be filed or a set-off claimed against the United States or such corporation with the same force and effect as if the libel had been filed by a private party. Upon application of either party the cause may, in the discretion of the court, be transferred to any other district court of the United States.

SEC. 3. That such suits shall proceed and shall be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties. A decree against the United States or such corporation may include costs of suit, and when the decree is for a money judgment, interest at the rate of 4 per centum per annum until satisfied, or at a higher rate which shall be stipulated in any contract upon which such decree shall be based. Interest shall run as ordered by the court. Decrees shall be subject to appeal and revision as now provided in other cases of ad-

miralty and maritime jurisdiction. If the libelant so elects in his libel the suit may proceed in accordance with the principles of libels in rem wherever it shall appear that had the vessel or cargo been privately owned and possessed a libel in rem might have been maintained. Election so to proceed shall not preclude the libelant in any proper case from seeking relief in personam in the same suit. Neither the United States nor such corporation shall be required to give any bond or admiralty stipulation on any proceeding brought hereunder. * * *

* * * * *

SEC. 5. That suits as herein authorized may be brought only on causes of action arising since April 6, 1917, provided that suits based on causes of action arising prior to the taking effect of this Act shall be brought within one year after this Act goes into effect; and all other suits hereunder shall be brought within two years after the cause of action arises.

SEC. 6. That the United States or such corporation shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators, or agents of vessels.

* * * * *

SEC. 8. That any final judgment rendered in any suit herein authorized, and any final judgment within the purview of sections 4 and 7 of this Act, and any arbitration award or settlement had and agreed to under the provisions of section 9 of this Act, shall,

upon the presentation of a duly authenticated copy thereof, be paid by the proper accounting officers of the United States out of any appropriation or insurance fund or other fund especially available therefor; otherwise there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to pay any such judgment or award or settlement.

* * * * *

SEC. 11. That all moneys recovered in any suit brought by the United States on any cause of action arising from, or in connection with, the possession, operation, or ownership of any merchant vessel, or the possession, carriage, or ownership of any cargo, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the United States Shipping Board, or of such aforesaid corporation, having control of the vessel or cargo with respect to which such cause of action arises, for reimbursement of the appropriation, or insurance fund, or other funds, from which the loss, damage, or compensation for which said judgment was recovered has been or will be paid.

SEC. 12. That the Attorney General shall report to the Congress at each session thereof the suits under this Act in which final judgment shall have been rendered for or against the United States and such aforesaid corporation, and the Secretary of any

department of the Government of the United States, and the United States Shipping Board, and the board of trustees of any such aforesaid corporation, shall likewise report the arbitration awards or settlements of claims which shall have been agreed to since the previous session, and in which the time to appeal shall have expired or have been waived.

SEC. 13. That the provisions of all other Acts inconsistent herewith are hereby repealed.

STATEMENT

Lustgarten brought an action at law on December 3, 1926, in the United States District Court for the Southern District of New York against the Fleet Corporation and the Consolidated Navigation Co., Inc. The United States was not a party. His complaint set forth two causes of action, first, that on March 6, 1926, while he was a seaman on the *Coelleda* he was injured by the lurching of the ship and that his injuries were due to the negligence of the defendant (*sic*) in failing to provide him with a safe and proper place in which to work and in compelling him to perform unnecessary work in a dangerous and unsafe position; and second, that while the officers and master of the vessel knew him to be in need of medical treatment and rest, the same were refused him and he was compelled to work, as a result of which his injuries were aggravated. The complaint averred that the Fleet Corporation

"owned, managed and controlled" the *Coelleda,* and that the Consolidated Navigation Co., Inc., "operated, managed, and controlled" this vessel. (R. 2–3.) The *ad damnum,* originally $30,000, was increased to $50,000. (R. 17.)

The defendants below filed separate answers, denying liability and seeking dismissal. (R. 3–7.) Both answers alleged that the *Coelleda* was and is a merchant vessel "belonging to the United States of America and duly documented and registered in the name of the United States of America;" and as a complete defense to both causes of action they pleaded in bar that whatever rights the plaintiff might have were founded exclusively upon the Suits in Admiralty Act. (R. 4–6.)

The case was tried before a jury. At the conclusion of the testimony introduced by the plaintiff, the defendants moved to dismiss the complaint as to both causes of action on various grounds. (R. 124–125, 142–143.) The court dismissed the first cause of action because no negligence was established, but denied the motion to dismiss the second. (R. 125.) At the conclusion of all of the testimony, defendants renewed their motions to dismiss the second cause of action, and also moved that the court direct the jury to return a verdict for the defendants, but both motions were denied and exceptions were taken. (R. 170.)

Lustgarten introduced evidence tending to show that while dumping ashes overboard on the high

seas he sustained injuries to his head and lungs from being thrown against the rail of the vessel by heavy seas. (R. 28, 29.) He testified that after the injury, the master, knowing his condition, required him to work for two hours in the galley, and that later proper medical attention was not given him. (R. 31–33, 53.) One physician, a witness called by the plaintiff, testified that he was of the opinion that the act of the master in requiring him to work in the condition in which he was following the accident was a competent producing cause of the tuberculosis from which he testified Lustgarten suffered at the time of the trial. (R. 122–123.) The defendants introduced testimony of two other physicians contradicting this testimony. (R. 157–158, 163–166.)

Lustgarten had been shipped by the master in the usual way. (R. 18, 143.) Except for the operating agreement, there was no evidence of any relation of the Fleet Corporation or the Navigation Company to the vessel or to Lustgarten, and there was no evidence of negligence on the part of either corporation in the selection of the master or any other matter. (See R. 143.)

The operating agreement was introduced in evidence as Plaintiff's Exhibit 4 and is set out in full on pages 177 to 181 of the record. It is designated as an "agency agreement for managing and operating vessels" and is in the form now commonly used by the Shipping Board. The parties to the agreement are the United States of America and

the Navigation Company, the recital and the signature showing that the United States acted through the Shipping Board represented by the Fleet Corporation. By it the United States, which is designated as "the owner," employed the Navigation Company "as its agent to manage, operate, and conduct the business of [the] vessel" for its account, and agreed to pay the agent as compensation certain specified commissions and fees, and reserved the right to terminate the agreement and assume control of the vessel at any time. The agent agreed to collect "all freight and other moneys accruing to the owner arising out of the management, operation, and business" of the vessel and to deposit them in a fund which should be the property of "the owner." (Further discussion of the terms and effect of the operating agreement will be found on pages 18–26, *infra.*)

The jury returned a verdict for the plaintiff in the sum of $10,000. (R. 175.) The defendants moved to set aside the verdict on various grounds, but the motion was denied. (R. 175.) Judgment was entered against both defendants for $10,000. (R. 13.)

The Circuit Court of Appeals for the Second Circuit on writ of error affirmed the judgment in a four line *per curiam* opinion, citing as authority *Sloan Shipyards Corporation* v. *Fleet Corporation,* 258 U. S. 549, and *Fleet Corporation* v. *Greenwald,* 16 F. (2d) 948.

SPECIFICATION OF ERRORS TO BE URGED

Of the specifications of errors set forth in the petition for the writ of certiorari, the following are now relied upon:

Both courts below erred:

* * * * *

2. In failing to dismiss the second cause of action against the Consolidated Navigation Company, Inc., as that Company was merely the operator of the vessel as the agent of the United States, and the injury complained of was rested upon the negligence of the Master and not the personal negligence of such agent.

3. In failing to dismiss the second cause of action against the United States Shipping Board Merchant Fleet Corporation, sued as the United States Shipping Board Emergency Fleet Corporation, as the Fleet Corporation was the public agent of the United States and the negligence complained of was the personal negligence of the Master of the vessel and not the personal negligence of the Fleet Corporation.

4. In failing to hold that the request for binding instructions directing the jury to find for the defendants should have been granted.

SUMMARY OF THE ARGUMENT

1. The only basis for Lustgarten's recovery was the failure of officers of the vessel to take proper care of him, a seaman, after he had been injured. There was no contention that the officers had not been selected with due care. No person is liable

for the failure to perform the duty except the person whose servants the officers and Lustgarten were. They were servants only of the United States, which owned the vessel and was financially interested in its operation. The Fleet Corporation had no connection with the vessel except to make, as a representative of the United States, an agreement for its operation. By this agreement the Navigation Company undertook to operate the vessel, but only as an agent for the Government. This agreement did not constitute either of the corporations owner of the vessel *pro hac vice.*

2. Even if the above contentions are overruled, the petitioners have a complete defense in that they were agents of the United States performing a public function. The Merchant Marine Act of 1920 in substance declares the operation of merchant vessels of the Shipping Board to be a function of Government. Since the passage of this Act the Fleet Corporation has been the agency through which the Shipping Board has performed its principal functions, and Congress has made annual appropriations for the maintenance and operation of Shipping Board vessels and for the expenses of the Fleet Corporation. The Suits in Admiralty Act provides that any final judgment rendered in any suit authorized by that Act, even though brought against the Fleet Corporation, shall be paid out of the Treasury of the United States. The Navigation Company was similarly a public agent operat-

75731—29——3

ing the vessel for the Government. A public agent is not responsible for omissions of duty of servants properly employed by him or it in the discharge of his or its official duties.

3. No action at law lies against the Fleet Corporation for the tort complained of in the instant case, as the remedy given by the Suits in Admiralty Act is exclusive of all other remedies against the Fleet Corporation on all causes of action arising out of the operation of merchant vessels owned by the United States for which a proceeding in admiralty could be maintained if the vessel were privately owned. Lustgarten had a remedy in admiralty for the tort complained of (if he had any right of action against the Fleet Corporation), but he brought an action at law. This Court has held in *Fleet Corporation* v. *Rosenberg Bros.*, 276 U. S. 202, that the Suits in Admiralty Act furnishes the exclusive remedy in admiralty against the United States and the Fleet Corporation on all maritime causes of action arising out of the possession or operation of merchant vessels owned by the Government. Although it has refrained from expressing an opinion on the precise question raised here, the considerations which led to the decision in the *Rosenberg case* would seem to apply equally to actions at law for maritime torts. If the Act is to provide a uniform system for administration of actions arising out of the operation of Government merchant vessels, the same procedure and the same period of limitation must apply to all proceedings.

Where Congress has undertaken to regulate a whole subject, its legislation necessarily is exclusive and the statutory remedy bars an action at common law which might have been brought but for such legislation. The Jones Act does not furnish a remedy against the United States and the Fleet Corporation separate and apart from the Suits in Admiralty Act, but operates merely to create rights which may be enforced against the United States or the Fleet Corporation under the Suits in Admiralty Act.

ARGUMENT

I

NEITHER OF THE PETITIONERS IS LIABLE TO LUSTGARTEN, BECAUSE THE UNITED STATES ALONE OWED LUSTGARTEN THE DUTY FOR NEGLECT OF WHICH HE RECOVERED

The trial judge submitted the case to the jury solely upon the question of the failure of duty to the plaintiff after the accident occurred. There was evidence tending to show that the captain not only failed to provide Lustgarten with proper care, but also that he required Lustgarten to work when he was unfit to work. (R. 171.)

There is no allegation or testimony that the captain or other officers were not selected with due care. Obviously the person liable for the failure of the captain to perform the duty was the person whose servants the captain and Lustgarten were. An intermediate agent who is guilty of no fault is not

liable for the tort of the servant of his principal. 1 Mechem on Agency (2d ed.), Sec. 1463 and footnote.

(A) THE CAPTAIN OF THE VESSEL AND LUSTGARTEN WERE SERVANTS OF THE UNITED STATES

The vessel was owned by the United States and was being operated under an agreement for the benefit and account of the United States, all moneys collected being deposited to an account of which it was the owner and which could be drawn upon only as directed by the owner.

The precise question discussed under this subheading was considered in an opinion rendered under date of January 17, 1925, by the Attorney General to the President on the question of the right of seamen employed on Shipping Board vessels to the benefit of the Federal Employees' Compensation Act. 34 Op. A. G. 363. In this opinion the Attorney General quotes at length from a statement of facts relating to the management and operation of Shipping Board vessels under the Merchant Marine Act of 1920 prepared by the General Counsel for the Shipping Board (pp. 365–366). He then outlines the identical provisions of the form of agreement involved in the instant case. (R. 177–181.)

The following are extracts from this opinion (p. 366):

> The MO 4 agreement referred to in paragraph 7, *supra,* is, in important particulars,

unlike the contract formerly in use, and considered in 34 Op. 123.

The present form of agreement is "between the United States of America, hereinafter designated as the owner, acting through the United States Shipping Board, represented by the United States Shipping Board Emergency Fleet Corporation." The word "owner" is substituted for the word "corporation" throughout the new agreement.

The relation of the United States to the management and operation of the ships is now emphasized in numerous provisions of the agreement, including the following: The operation, conduct and business of the vessel is to be "under the supervision of the *owner* at all times." (Par. 1.) The agent agrees to operate and conduct the business of the vessels in accordance with the directions, orders, and regulations which the *owner* may from time to time prescribe. (Par. 2.) The agent agrees to man, equip, victual and supply all vessels "subject to such restrictions and in such manner as the *owner* may prescribe," and to pay "for account of the *owner*" the cost thereof and all other costs and expenses incident to the management, operation and conduct of the vessel as the agent may from time to time be directed by the owner." (Par. 3.) No extraordinary repairs or expenses of any kind shall be made or incurred, and no alteration in the hull, machinery, or equipment shall be made by the agent, except in case of emergency, without first securing in writing the authoriza-

tion of the *owner*, and all such expenses properly incurred shall be for the account of the *owner*. (Par. 4.) The agent is required to exercise reasonable care to protect and safeguard the interests of the *owner* in all respects, and to avoid loss and damage of every nature to the *owner*. (Par. 5.) The agent agrees to deposit all moneys collected on behalf of the *owner* in a national bank or a bank which is a member of the Federal Reserve Association, or some other bank that may be approved by the *owner*, as a separate fund. The money shall be the property of the *owner* and drawn upon only as directed by the *owner*, and all disbursements shall be made in such manner or form as may be prescribed or approved by the *owner*; and the agent must account for all moneys received or disbursed at such times and in such form as directed by the *owner*, and only items supported by proper vouchers or accountings will be allowed in settlement. (Par. 9.)

Paragraph 11 defines the compensation payable to the agent by the United States and the items of cost which the agent agrees to assume and pay for his own account. The latter clearly relate to the individual activities of the agent as distinguished from his operations as set out in the clauses of the agreement hereinbefore referred to.

Under paragraph 16 the owner has the right at any time to terminate the agreement and to assume control forthwith of the vessels and to collect directly all freight moneys

or other debts remaining unpaid; and by paragraph 17:

"The trade name under which a line or route is operated with vessels of the owner shall be subject to the approval of the owner and shall not contain the name of the agent, and such trade name shall remain the property of the owner."

The changes introduced into the new contract were for the purpose of making it clearer that the contract is that of the United States and not that of the Fleet Corporation, and the practical construction by the Shipping Board is thus stated:

"Our view has always been that the masters and crews of Shipping Board vessels are agents and servants of the United States. The vessels are owned by the Government. The Fleet Corporation acting as agent for the United States appoints the managing agents, who in turn select the crew. They do so subject to the rules and regulations issued by the owner. The masters and crews become the agents and servants of the owner, the United States, and not of the intermediary agents, the Fleet Corporation and the managing agents. The latter do only what they are authorized and directed to do in employing the masters and crews." * * *

The present form of contract, as a whole, makes clear the relation of principal and agent between the United States and the agent, with only limited authority in the

agent. It is in no sense a charter or a lease of the vessels. * * *

* * * * *

All the fiscal operations are for the account of the owner—the United States—and are controlled, in detail, by general orders. If the operation of the ships result in a profit, that profit accrues to the United States. If losses result, they are borne by the United States, but the agent nevertheless receives his compensation in either event.

The method by which seamen are hired and paid, as stated by the General Counsel for the Shipping Board, *supra,* show that they are hired by the United States and paid by the United States from its funds.

* * * * *

My conclusion, therefore, as to ships operated under the present MO 4 form of agreement, is that, inasmuch as the ships are owned by the United States, operated for the benefit of the United States with its money and at its expense, and that, as a part of such operation, the men are hired and paid by the United States from money appropriated by the Congress of the United States, these men thus employed, thus hired, and thus paid, are in fact working for the United States. In other words, they are employees of the United States, and as such are entitled to the benefits of the Federal Employees' Compensation Act.

For the reasons set forth in the extracts of this opinion quoted above, we submit that the captain of the *Cocileda* and Lustgarten were servants of the

United States during the voyage in question and not of the Fleet Corporation or of the Navigation Company.

(B) NEITHER OF THE PETITIONERS BECAME THE OWNER OF THE VESSEL "PRO HAC VICE"

It is conceded that the owner of a vessel *pro hac vice* would owe the same duty to the seaman as the general owner of the vessel, but we submit that neither of the petitioners became the owner of the vessel *pro hac vice*.

The Fleet Corporation was never such an owner. Although under the Merchant Marine Act (p. 4, *supra*), the Fleet Corporation is given authority to operate vessels, in the case of the *Coelleda* the only connection of the Fleet Corporation with the vessel was in the making of an agency agreement for managing and operating the vessel which is expressed to be—

> between the United States of America, hereinafter designated as the owner, acting through the United States Shipping Board, represented by the United States Shipping Board Emergency Fleet Corporation, and Consolidated Navigation Company, a corporation organized and existing under and by virtue of the laws of the State of Maryland, hereinafter called the agent. (R. 177.)

The only other mention of the Fleet Corporation in the agreement is in paragraph 9, in which the agent agrees to deposit moneys collected in behalf of the owner as a separate fund in the name

of the Fleet Corporation; but, although the Treasurer of the Fleet Corporation is allowed to draw checks on this fund, it is provided that the fund shall be the fund of the "owner." (R. 178.)

From the discussion of the scope and effect of the agreement on pp. 18–22, *supra*, it clearly appears that neither the Fleet Corporation nor the Navigation Company became the owner of the vessel *pro hac vice*. As the Attorney General said of this form of agreement in the opinion mentioned above (34 Op. A. G. 363, 368):

> It is in no sense a charter or a lease of the vessels.

See also *New Orleans-Belize S. S. Co.* v. *United States*, 239 U. S. 202; *United States* v. *Shea*, 152 U. S. 178, 186–187; *Leary* v. *United States*, 14 Wall. 607; *Baumvoll* v. *Gilchrest & Co.* [1892], 1 Q. B. 253, 258–259.

In his brief in opposition to our petition for certiorari, the respondent argued that clause 7 of the agency agreement (R. 178), which provides that "subagents" selected by the agent shall be held the agents of the agent, is sufficient to stamp the agent as an owner *pro hac vice*. It is clear, however, that the word "subagents" refers to commercial agents in various ports and not to officers and members of the crew. The latter would not be referred to as "subagents" in ordinary or in maritime parlance.

That brief relied on the case of *Fleet Corporation* v. *Greenwald*, 16 F. (2d) 948, which held the

operating agents A. H. Bull & Co. liable, together with the Fleet Corporation, as owners *pro hac vice,* for the death of a seaman. This is also one of the cases cited by the Circuit Court of Appeals in the instant case. The form of agreement which was involved in that case does not appear in the report or in the record in that case, but the opinion stated that the vessel was owned by the Fleet Corporation and that Bull & Co. managed and operated the vessel on a "cost-plus" plan and received a percentage of the profits. Whether the decision of the court in that case was right or wrong, it should not control the instant case. As heretofore shown in this brief, neither the Fleet Corporation nor the operating agent has any interest whatsoever in either the vessel or the proceeds of the operation of the vessel. Both the vessel and the proceeds were the property of the United States and at all time were subject to the control of the United States. It is inconceivable that an agent of the Government could have any interest whatsoever in the property of the Government, and there is nothing in the Merchant Marine Act of 1920 covering the operations of Government-owned vessels by the Shipping Board and its agent, the Fleet Corporation, or in the managing agency agreement above mentioned which would justify the view that either the Fleet Corporation or managing agent would have any interest in either the vessel or the operation of the vessel.

The same brief also cites *Thorp* v. *Hammond,* 12 Wall. [79 U. S.] 408, in support of its contention that the agreement made the petitioners owners *pro hac vice.* This case is, however, entirely distinguishable. There the charterer of the vessel, who was a part owner, hired his own crew, paying and victualing them at his own expense, managed and controlled the ship without the control, restraint, or possession of any other person, and retained half of the net freights. He was held to be owner *pro hac vice.* The situation was entirely different from that in the instant case. Moreover, the question was whether the defendant was a "charterer" within the definition of Section 5 of an Act of Congress of March 3, 1851, which, of course, is not involved here.

II

Neither of the Petitioners is Liable to Lustgarten for the Tortious Acts of Persons Whom They Employed to Carry on the Operation of Merchant Vessels Owned By the United States and Whom They Selected With Due Care, Because the Petitioners Were Performing a Public Function as Agents of the United States

Even if the contention made under our previous heading is overruled, we submit that the petitioners can not be held liable for the tort of the captain of the vessel, because their activities were solely those of public agents. This is the effect of the provision of the Merchant Marine Act of 1920 (pp. 3–4,

supra), which in substance declares the operation of the merchant vessels of the Shipping Board to be a function of Government. See also *Berizzi Bros. Co.* v. *S. S. Pesaro,* 271 U. S. 562, 574. Sections 12 and 35 of that Act expressly mention the Fleet Corporation as an agency through which the power and authority vested in the Board by the Act may be exercised. Since the passage of this Act annual appropriations have been made for the expenses of the Fleet Corporation.[1]

This Court in *Emergency Fleet Corporation* v. *Western Union Telegraph Company,* 275 U. S. 415, 421, said:

> Since the passage of the Merchant Marine Act, 1920, the Fleet Corporation has been the agency through which the Shipping Board has performed its principal functions. The activities have consisted largely of maintaining and liquidating property acquired for the United States during the World War, of settling claims arising therefrom, and of operating, or causing to be operated, vessels not disposed of. Besides other activities, the Fleet Corporation has operated directly, and has been interested in the operation of, vessels owned by the United States. Some of

[1] The Appropriation Acts are as follows: Act of March 4, 1921, 41 Stat. p. 1382; Act of June 12, 1922, 42 Stat. p. 647; Act of Feb. 13, 1923, 42 Stat. p. 1241; Act of June 7, 1924, 43 Stat. p. 530; Act of March 3, 1925, 43 Stat. 1209; Act of April 22, 1926, 44 Stat. 318; Act of Feb. 11, 1927, 44 Stat. 1082; Act of May 16, 1928, 45 Stat. 586; Act of Feb. 20, 1929, 45 Stat. 1244.

> these government vessels have been operated in competition with American vessels privately owned. But in operating vessels, as in making sales, the Shipping Board and the Fleet Corporation were required by the Merchant Marine Act to proceed with a view to aiding in the development of an adequate merchant marine to serve, among other things, "as a naval and military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States." These services of the Fleet Corporation were obviously of a public nature. It has never done any business, or conducted any operation, except on behalf of the United States.

Our contention that the Fleet Corporation is a public agent is also supported by the clause in Section 8 of the Suits in Admiralty Act which provides that any final judgment rendered in any suit authorized by that Act, even though brought against the Fleet Corporation, shall be paid out of the Treasury of the United States (pp. 8–9, *supra*).

We submit that the Navigation Company is similarly a public agent, operating the vessel as the Fleet Corporation might have operated it—for the Government. Under the operating agreement used in the instant case, the agent receives as compensation only certain specified commissions and fees, there is no undertaking on its part to stand any damages, and the Government would have to reimburse the Navigation Company if it should be compelled to pay any damages for personal injuries

incurred in the operation of the vessel, under the circumstances presented by the instant case.

In *Robertson* v. *Sichel,* 127 U. S. 507, 515–516, this Court held:

> A public officer or agent is not responsible for the misfeasances or positive wrongs, or for the nonfeasances, or negligences, or omissions of duty, of the sub-agents or servants or other persons properly employed by or under him, in the discharge of his official duties. Story on Agency, Sec. 319.

See, to the same effect, *Keenan* v. *Southworth,* 110 Mass. 474; *Donovan* v. *McAlpin,* 85 N. Y. 185; 1 Mechem on Agency (2d edition), Sec. 1502.

These proceedings, therefore, while against the agents, are in effect actions against the Government under the doctrine of *Minnesota* v. *Hitchcock,* 185 U. S. 373, 387, and *Wells* v. *Roper,* 246 U. S. 335.

The Circuit Court of Appeals in the instant case and the respondent in this Court in his brief in opposition to our petition for certiorari relied upon *Sloan Shipyards Corporation* v. *Fleet Corporation,* 258 U. S. 549. The majority opinion of this Court in that case said that the Fleet Corporation might be sued for a tort, as the fact that a person is a Government agent does not render him immune from liability for his own wrongful acts. We do not understand this case, however, to hold that the Fleet Corporation may be held for the negligence of servants appointed by it. No such question appears to have been presented in that case. Apparently the alleged wrong was a course of

action taken by the Fleet Corporation in pursuance of a definite policy of its officers and directors. As an individual who is a public agent may be liable for his own torts, so a corporation acting as a public agent may be liable for properly authorized corporate action which is tortious. It does not follow that it is liable for the mere negligence of servants appointed by it. Moreover, the status of the Fleet Corporation was somewhat different at the time of the acts complained of in the *Sloan case,* as these acts occurred before the passage of the Merchant Marine Act of 1920.

(This case, of course, has no applicability to our next contention, i. e., that the Suits in Admiralty Act furnishes the exclusive remedy, inasmuch as that case was instituted in the court of first instance before the passage of the Suits in Admiralty Act, and the subject matter thereof was not maritime.)

III

No Action at Law Lies Against the Fleet Corporation for the Tort Complained of in the Instant Case, as the Remedy Given by the Suits in Admiralty Act Is Exclusive of All Other Remedies Against It for all Causes of Action Arising Out of the Operation of Merchant Vessels Owned by the United States for which a Proceeding in Admiralty Could Be Maintained If the Vessel Were Privately Owned

The provisions of this Act which need be considered in the instant case are copied on pp. 6–10, *supra.*

The cause of action upon which judgment below was entered arose in March, 1926. (R. 10.) The action at law was brought within a year. (See R. 9.) No question of the statute of limitations is involved, but we submit that the remedy in admiralty given by the Suits in Admiralty Act was the exclusive remedy which was open to Lustgarten. He might have pursued that remedy but he did not. The record does not show that any attempt was made to follow the procedure required by this Act. The action which he brought was at law, and the trial was before a jury.

This Court has refrained from expressing an opinion on the precise question raised here, i. e., whether the Act prevents a resort to any remedy outside of those in admiralty. We submit, however, that the considerations which led to the decisions hereinafter cited must lead to the conclusion that the Act does prevent resort to an action at law.

In *Eastern Transportation Co.* v. *United States,* 272 U. S. 675, this Court held that the Act not only substituted for a suit *in rem* one *in personam,* but also had a wider effect and created a broader personal obligation of the United States, as the owner of an offending vessel, like that of a private owner, which might be enforced in admiralty by a libel *in personam* in cases where there was no basis for an action *in rem.*

In *Fleet Corporation* v. *Rosenberg Bros.,* 276 U. S. 202, 213–214, this Court said:

> The Act * * * provides a remedy in admiralty for adjudicating and satisfying all maritime claims arising out of the possession or operation of merchant vessels of the United States and the corporations, in which the obligation of the United States is substituted for that of the corporations. To that end it furnishes a complete system of administration, applying to the United States and the corporations alike, by which uniformity is established as to venue, service of process, rules of decision and procedure, rate of interest, and periods of limitation; and not only provides that the judgments against the corporations, as well as those against the United States, shall be paid out of money in the Treasury, but repeals the inconsistent provisions of all other Acts.
>
> In view of these provisions of the Act we can not doubt that it was intended to furnish the exclusive remedy in admiralty against the United States and the corporations on all maritime causes of action arising out of the possession or operation of merchant vessels. And nothing in its legislative history indicates a different purpose.

This Act has provided a remedy for the satisfaction from Government money of all claims of a maritime nature arising out of the operation by the Fleet Corporation, or by or for the Government, of merchant ships. It treats the United States and the Fleet Corporation exactly alike in almost every respect—as to the remedy, the time to sue, the method of procedure, the measure of recovery, and

the source of satisfaction, which is the public treasury. The provision for payment of decrees against the Corporation with public money stamps as public every activity that may form the basis of any such decree. This Act has provided a system for adjudication and satisfaction of all obligations of the Fleet Corporation arising out of the possession, ownership, or operation of ships. No other system is provided.

It has been recognized by this Court that where Congress has undertaken to regulate a whole subject, "its legislation is necessarily exclusive" and that a statutory remedy bars an action at common law which might have been brought, but for such legislation. *Arnson* v. *Murphy,* 109 U. S. 238, 243. See also *United States* v. *Pfitsch,* 256 U. S. 547; *Nassau Smelting Works* v. *United States,* 266 U. S. 101.

It is inconceivable that Congress in providing for payment of a final judgment from the public treasury if a suit were brought against the Fleet Corporation in admiralty intended that in an action at law for the same tort a judgment might be obtained which would not be paid from the public treasury. It would have been well nigh futile to have provided for a system of administration in regard to remedies against the United States and the Fleet Corporation in connection with the operation of merchant vessels, if such system applied only to suits brought in admiralty, and its uni-

formity could be upset and its purposes destroyed by the bringing of actions at law.

In an opinion rendered since the decision of the *Rosenberg (West Aleta) case, Royal Insurance Co., Limited,* v. *Fleet Corporation,* 1929 A. M. C., 393 (certiorari granted, October Term, 1929, No. 123), District Judge Thacher used the following convincing language (p. 394):

> In *Cerosco; Federal Sugar Rfg. Co.* v. *United States,* 1929 A. M. C. 84, the Circuit Court for this Circuit held that the Act was exclusive of all suits against the United States by petition under the Tucker Act for causes of action which might have been brought under the Suits in Admiralty Act. The fact that the petition in that cause might have been treated as a declaration at law was held not to affect the question, and the decision turned upon the conclusion that "every consideration which moved the Supreme Court to declare that the Act superseded the usual libel equally applies to a petition upon the same cause of action under the Tucker Act, however cast." In this connection it was, however, said: "More can be said in favor of retaining actions at law against the Fleet Corporation. These are triable to a jury, and it is possible that Congress intended to leave them with whatever limitations chanced to be applicable." But to so decide would be to defeat the obvious plan and purpose of the statute, which, as declared in the *West Aleta,* was to provide a complete system of administration applying

to the United States and to corporations in which it is the only stockholder, under which uniformity is provided in procedure for the enforcement of remedies, limitation upon the right to sue, recovery of interest, payment of judgments recovered out of moneys in the Treasury, and a report to Congress of all final judgments rendered in suits under the Act. The statute applies this system without discrimination to suits against the Government and suits against corporations in which it is the only stockholder. It has been held exclusive of other remedies because the pursuit of such remedies would nullify its provisions. If concurrent legal remedies are still available, not only Sec. 5, limiting the right to sue, but Sec. 3 in its provision for the recovery of interest at four per cent. unless otherwise stipulated, may be evaded at the choice of any complainant. That the Act was intended to be exclusive is emphasized by the fact that the Attorney General is required to report to Congress all final judgments entered in suits under the Act. Such reports would be of little value if judgments against the Fleet Corporation were recoverable at law in like suits. Nor is it to be assumed that Congress intended to preserve the right to trial by jury in actions brought against a corporation in which the entire capital stock is owned by or held for the United States. Legislative intent is clear to put the Fleet Corporation upon a plane with the Government itself insofar as liabilities arising out of the operation of

> merchant vessels are concerned. If one looks beneath the corporate form to the interests of the Government affected by such suits, there was strong reason for following traditional policy in requiring trial without a jury.
>
> All this being so, every consideration which influenced decision in the *West Aleta, supra,* and in *Cerosco, Supra,* applies to these actions at law against the Fleet Corporation, and leads to the conclusion that such actions, as well as suits in Admiralty and actions against the United States under the Tucker Act, are not maintainable if remedies for the same causes of suit were available under the Suits in Admiralty Act. Actions at law maintainable under statutes enacted subsequent to the enactment of the Suits in Admiralty Act are not here in question, and the right to maintain such actions, notwithstanding the provisions of the earlier statute, is neither considered nor adjudicated.
> * * *

We submit that the considerations mentioned in this opinion are applicable to *all* suits or actions against the Fleet Corporation on causes of action for which there is a remedy in admiralty.

The importance of a uniform system of procedure and limitation is illustrated by what happened as a result of the situation out of which the *Royal Insurance Company case* arose. Cargoes belonging to several different owners aboard the Steamship *Eastern Glade* were damaged in 1922. With-

in the two-year period various underwriters in the name of shippers filed libels against the United States under authority of the Suits in Admiralty Act, and the United States was held liable for these losses. Thereafter, on September 7, 1928, almost six years after the damage occurred, the Royal Insurance Company brought the above case. As Congress provided for a report at each of its sessions of all suits under the Act in which final judgment has been rendered for or against the United States and the Fleet Corporation, in which the time to appeal shall have expired, it is inconceivable that Congress intended to permit the prosecution of exactly the same kind of claims—either in contract or tort—in such a way that no report of them would be made, and that prosecution of such claims could be delayed three times as long as if they were prosecuted under the Act.

A strong reason for the construction of the Act for which we contend is to be found in the limitation provision in Section 5 of the Act. It provides that all suits "hereunder" (with an exception not here material) are to be "brought within two years after the cause of action arises." In many suits which might have been brought for the same causes of action under other Acts, the limitation period is six years. The language of Section 5 does not expressly apply to suits not brought "hereunder." Congress must have had a reason for providing a limitation period much shorter than that in the usual statutes of limitation. It is de-

sirable to have prompt settlements of claims relating to Government owned merchant vessels. Another practical reason may have been that the testimony of seafaring witnesses is unusually difficult to obtain and present to the court, as they become scattered in all parts of the world, and where the prosecution of maritime claims is delayed their successful defense is seriously prejudiced. A number of other Federal statutes have prescribed a two-year limitation for causes under maritime jurisdiction. General Salvage Act, c. 268, 37 Stat. 242, (U. S. C. Title 46, Secs. 727–731); Section 33, Merchant Marine Act, 1920, c. 250, 41 Stat. 988, 1007; Death on the High Seas Act, c. 111, 41 Stat. 537 (U. S. C., Title 46, Secs. 761–768); Public Vessel Act, c. 428, 43 Stat. 1112 (U. S. C., Title 46, Secs. 781–790); Cummins Amendment, c. 91, 41 Stat. 456, 494. Whatever reasons Congress may have had for prescribing the two-year limitation period, it is clear that they would be frustrated if actions either in contract or tort could be brought outside of the Suits in Admiralty Act after two years.

In *Federal Sugar Refining Co.* v. *United States,* 30 F. (2d) 254 (which case is set down for hearing on a writ of certiorari after the hearing in the instant case), question arose as to whether a suit against the United States as owner of a merchant vessel on account of damage to a cargo could be maintained when the petition was filed more than two years after the cause of action arose. The Circuit Court of Appeals for the Sec-

ond Circuit affirmed a decree of the District Court of the United States for the Southern District of New York, dismissing the petition. Judge Learned Hand in the opinion of the court said (pp. 255–256):

> We can therefore see no reason why the Suits in Admiralty Act should not override a suit by petition against the United States, so far as it seeks relief analogous to that granted in the admiralty, just as it overrides libels against the Fleet Corporation.
>
> The petition, viewed as a declaration at law, might theoretically stand upon another footing; but we think it cannot. If it does, the result is not only that the limitations for torts differ from that for contracts, but that by a mere form of words the party aggrieved may avoid the limitation of section 5; he need only call his petition a declaration and he secures the longer period. Indeed, under present-day conditions, when the right to amend is readily granted and forms of the pleading count for little, he may contrive to avoid the act at any stage of the suit. Section 5 becomes brutum fulmen, and the limitation is six years, if the petitioner wishes to have it so. We cannot think that section 13 meant to leave this possibility open.

One other matter remains to be considered. Lustgarten has contended that his action lies under the Jones Act (Sec. 33, which is copied on page 5, *supra*), which was passed a few months after

the Suits in Admiralty Act. This section, however, gives a right of action only against the person whose servant the seaman is. As we have pointed out, Lustgarten stood in the relation of servant only to the United States; the petitioners were only intermediate agents.

If, as we contend, the remedy given by the Suits in Admiralty Act was intended to supersede all other remedies then existing, it can not be supposed that soon after the passage of that Act the same Congress would have made an exception to the procedure provided by that Act. Or, if Congress had so intended, it seems probable that it would have indicated its intention in clear and express language. This it did not do in the Jones Act.

As this Court said in *Panama R. R. Co.* v. *Johnson*, 264 U. S. 375, 384:

> But as a general rule, where existing legislation on a particular subject has been systematically revised and restated in a comprehensive general statute, * * * subsequent enactments touching that subject are to be construed and applied in harmony with the general statute, save as they clearly manifest a different purpose. An intention to depart from a course or policy thus deliberately settled is not lightly to be assumed. * * *

The contention that rights and remedies against the United States and the Fleet Corporation exist under the Jones Act separate and apart from the Suits in Admiralty Act presupposes an inconsistency of purpose and would bring about an absurd

result. On the other hand, our contention gives a full and harmonious effect to both Acts, for the Jones Act, as construed in *Panama R. R. Co.* v. *Johnson,* 264 U. S. 375, *supra,* gives a remedy in admiralty against owners of vessels privately owned or operated, which satisfies the conditions of Section 2 of the Suits in Admiralty Act, so that the latter operates to give a remedy against the United States or the Fleet Corporation in cases of vessels owned or operated by the United States or the Fleet Corporation.

CONCLUSION

It is respectfully submitted that the judgment of the Circuit Court of Appeals should be reversed and the cause remanded with directions to enter judgment for the defendants.

CHARLES E. HUGHES, Jr.,
Solicitor General.
GEORGE R. FARNUM,
Assistant Attorney General.
CLAUDE R. BRANCH,
Special Assistant to the Attorney General.
J. FRANK STALEY,
Chief Attorney.
CHAUNCEY G. PARKER,
General Counsel,
United States Shipping Board.

OCTOBER, 1929.

U. S. GOVERNMENT PRINTING OFFICE 1929